

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Hector Salvatori,

Plaintiff,

v.

Case No. 2:23-cv-3750
Judge James L. Graham
Magistrate Judge Elizabeth P. Deavers

Director Ur Jaddou, *et al.*,

Defendants.

Order

This matter is before the Court to consider a Report and Recommendation (ECF No. 16) issued by Magistrate Judge Deavers on June 27, 2024. Plaintiff Hector Salvatori, through counsel, filed a Complaint for Declaratory Review Under the Administrative Procedure Act & for a Writ of Mandamus against Ur Jaddou, the Director of the United States Citizenship and Immigration Services, and Merrick Garland, the United States Attorney General (ECF No. 1). Plaintiff sought an order directing Defendants to create an interview date for him within 30 days of the order and to issue a decision within 30 days of the interview date (*Id.*).

Service was not completed within 90 days and so the Court issued a show cause order directing Plaintiff, within fourteen days, to show cause as to why the action should not be dismissed and why an extension of time to effect service should be allowed (ECF No. 8). Plaintiff responded and was granted an extension of time to complete service (ECF No. 9). On April 1, summons was returned executed as to Merrick Garland and unexecuted as to Ur Jaddou (ECF Nos. 11-13). The Magistrate Judge once again issued a show cause order relating to Director Jaddou and Plaintiff, once again, failed to respond (ECF No. 14). On May 6, 2024, the Magistrate Judge issued a Status Report Order, noting that this case had been pending for sixth months, and informed Plaintiff that a failure to file a written status report within fourteen days would result in a recommendation that this case be dismissed with prejudice for failure to prosecute (ECF No. 15).

In the Report and Recommendation, the Magistrate Judge highlights the Court's substantial discretion regarding decisions to dismiss for failure to prosecute. Due to Plaintiff's failure to comply, the Magistrate Judge recommends that the matter be dismissed without prejudice for failure to prosecute.

The Report and Recommendation specifically advised the parties that failure to object to the Report and Recommendation within fourteen (14) days "will result in a waiver of the right to have the District Judge review the Report and Recommendation *de novo*, and also operates as a waiver of the right to appeal the decision of the District Court adopting the Report and Recommendation." The deadline for filing objections to the Report and Recommendation has since expired, and no party has objected to the Report and Recommendation.

The Court agrees with Magistrate Judge Deaver's Report and Recommendation (ECF No. 16), and it is hereby **ADOPTED**. Petitioner's Complaint (ECF No. 1) is therefore **DISMISSED** without prejudice.

IT IS SO ORDERED.

s/ James L. Graham
JAMES L. GRAHAM
United States District Judge

DATE: July 16, 2024